

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

XUEJIE HE,

Plaintiff,

v.

OFFICE OF THE NEW YORK CITY
COMPTROLLER,

Defendant.

USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED: 11/22/19

No. 18-CV-7806 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Plaintiff Xuejie He filed this action *pro se* on August 27, 2018. On August 27, 2019, Defendant moved to dismiss. On September 26, 2019, Plaintiff filed a “Notice of Motion to Dismiss,” indicating that Plaintiff had “moved the case to the [United States Supreme Court]” and asserting that this Court “has no jurisdiction” with respect to Defendant’s motion (*see* Dkt. 21). On September 27, 2019, the Court ordered the parties to confer and file a joint letter by October 18, 2019 with respect to whether Plaintiff seeks to further pursue this action before this Court (*see* Dkt. 23). On October 18, 2019, upon receiving Defendant’s letter, the Court ordered Plaintiff to inform the Court, no later than November 8, 2019, whether she intends to pursue this action, and advised Plaintiff that if the Court did not receive a response by that date, it would dismiss this action pursuant to Federal Rule of Civil Procedure 41 for failure to prosecute (*see* Dkt. 26). On October 31, 2019, Plaintiff filed a letter (dated October 24, 2019) indicating that she brought a petition in the United States Supreme Court (*see* Dkt. 27). On November 12, 2019, the Court informed Plaintiff that her October 24th letter seemed to indicate that she did not intend to pursue this action in this Court, and was otherwise not responsive to the Court’s October 18th Order (*see*

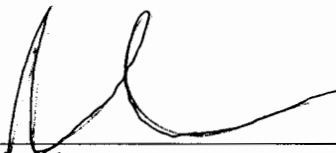
Dkt. 28). The Court also informed Plaintiff that if she did not file a response indicating her intent to pursue this action by November 19, 2019, the Court would dismiss this action pursuant to Rule 41(b). On November 20, 2019, Plaintiff filed another "Notice of Motion to Dismiss," indicating again that she had moved the case to the United States Supreme Court (*see* Dkt. 29).

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if "the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order." Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the only responses the Court has received from Plaintiff indicate that she does not intend to pursue this action in this Court, and because Plaintiff has not indicated otherwise, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

The Clerk of Court is respectfully directed to mail this Order to Plaintiff no later than November 25, 2019. The Clerk of Court is also respectfully directed to terminate all pending motions and close the case.

SO ORDERED.

Dated: November 22, 2019
New York, New York



Ronnfe Abrams
United States District Judge